

803 KAR 2:140. Employer and employee contests.

RELATES TO: KRS Chapter 338

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY, FUNCTION, AND CONFORMITY: Pursuant to the authority granted the Kentucky Occupational Safety and Health Standards Board by KRS 338.051, the following rules and administrative regulations are adopted, governing the employer and employee contests before the review commission. The function of this administrative regulation is to inform the employer and employees of the proper procedure to be followed in contesting a citation and/or penalty issued by the Commissioner of the Department of Workplace Standards.

Section 1. Contesting Procedure. (1) Any employer to whom a citation or notice or penalty has been issued may, under KRS Chapter notify the Commissioner of the Department of Workplace Standards in writing that he intends to contest such citation, or notice of proposed penalty before the review commission. Such notice of intention to contest shall be postmarked within fifteen (15) working days of the receipt by the employer of the notice of proposed penalty. Every notice of intention to contest shall specify whether it is directed to the citation, the proposed penalty, or a variance. The commissioner shall immediately transmit such notice to the review commission in accordance with the rules of procedure prescribed by the commission.

(2) Any employee or representative of employees of an employer to whom a citation has been issued may:

(a) File a written notice with the commissioner alleging that the period of time fixed in the citation for the abatement of the violation is unreasonable;

(b) File a written notice to the commissioner alleging that the citation and penalties are unreasonable. Such notices shall be postmarked within fifteen (15) working days of the receipt by the employer of the notice of proposed penalty or notice that no penalty is being proposed. The commissioner shall immediately transmit such notice to the review commission in accordance with the rules of procedure prescribed by the commission.

(3) If any party is adversely affected by a variance issued under KRS 338.151 he may file an appeal to the review commission. (OSH 114-1; 1 Ky.R. 162; eff. 12-11-74; TAm eff. 8-9-2007; TAm eff.9-8-2011.)